

**Local Law Filing**

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**(Use this form to file a local law with the Secretary of State.)**

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

**Town of Colonie  
Local Law No 4 of the year 2023**

A local law amending Chapter 190 of the Code of the Town of Colonie

**Be it enacted by the Town Board of the Town of Colonie as follows:**

**SECTION 1: AMENDMENT**

Chapter 190, Sections 75 – 78 shall be replaced in their entirety with the following:

**§ 190-75 Definitions.**

The terms used in this article or in documents prepared or reviewed under this article shall have the meaning as set forth in this section. If a term is not defined in this section, then the definition provided in Article II shall apply. Any conflict between a definition provided in Article II and this article shall be resolved in favor of the definition provided below.

**AGRICULTURAL ACTIVITY**

The activity of an active farm, including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation or the construction of new structures associated with agricultural activities.

**BUILDING**

Any structure, either temporary or permanent, having walls and a roof, designed for the sheltering of any person, animal or property, and occupying more than 100 square feet of area.

**CHANNEL**

A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

**CLEARING**

Any activity that removes the vegetative surface cover.

**DEC**

The New York State Department of Environmental Conservation.

**DESIGN MANUAL**

The New York State Stormwater Management Design Manual, as amended. This manual serves as the official guide for stormwater management principles, methods and practices.

**EROSION CONTROL MANUAL**

The New York Standards and Specifications for Erosion and Sediment Control Manual, as amended. This is commonly known as the "Blue Book."

**IMPERVIOUS COVER**

Surfaces, improvements and structures that cannot effectively be infiltrated by rainfall, snowmelt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

**INDUSTRIAL STORMWATER PERMIT**

A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

**INFILTRATION**

The process of percolating stormwater into the subsoil.

**JURISDICTIONAL WETLAND**

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

**LAND DEVELOPMENT ACTIVITY**

An activity, including clearing, grading, excavating, soil disturbance or placement of fill, that results in land disturbance equal to or greater than one acre or an activity disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

**LANDOWNER**

The legal or beneficial owner of land, including those holding the right to purchase or lease the land or any other person holding proprietary rights in the land.

**MAINTENANCE AGREEMENT**

A document which provides for long-term maintenance of stormwater management practices. It is anticipated this document will be recorded in the Albany County Clerk's Office and will act as a property deed restriction or encumbrance.

**NON-POINT-SOURCE POLLUTION**

Pollution from any source other than from any discernible, confined and discrete conveyances and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

**PHASING**

Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

**POLLUTANT OF CONCERN**

Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or silt) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

**PROJECT**

Any construction or development activity upon real property.

**RECHARGE**

The replenishment of underground water reserves.

**SEDIMENT CONTROL**

Measures that prevent sediment from leaving the site.

**SENSITIVE AREAS**

Cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs or habitats for threatened, endangered or special concern species.

**SMP**

See "stormwater management practices."

**SPDES**

The New York State Pollutant Discharge Elimination System.

**SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES, GP-02-01**

A SPDES permit issued to developers of construction activities to regulate disturbance of one or more acres of land.

**SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS, GP-02-02**

A SPDES permit issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA-established water quality standards and/or to specify stormwater control standards.

**STABILIZATION**

The use of practices that prevent exposed soil from eroding.

**STOP-WORK ORDER**

An order issued which requires that all construction activity on a site be stopped.

**STORMWATER or STORM WATER**

Rainwater, surface runoff, snowmelt and drainage.

**STORMWATER HOT SPOT**

A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

**STORMWATER MANAGEMENT**

The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

**STORMWATER MANAGEMENT FACILITY**

One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

**STORMWATER MANAGEMENT OFFICER**

An employee or officer designated by the Commissioner of the Department of Public Works or the Town Board to accept and review stormwater pollution prevention plans, forward the plans to the applicable Town board or department, inspect stormwater management practices, and enforce this article.

**STORMWATER MANAGEMENT PRACTICES (SMPs)**

Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point-source or non-point-source pollution inputs to stormwater runoff and water bodies.

**STORMWATER POLLUTION PREVENTION PLAN (SWPPP)**

A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

**STORMWATER RUNOFF**

Flow on the surface of the ground, resulting from precipitation.

**SURFACE WATERS OF THE STATE OF NEW YORK**

Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except

those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition, are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

**SWPPP (aka "swipp")**

See "stormwater pollution prevention plan."

**WATERWAY**

A channel that directs surface runoff to a watercourse or to the public storm drain.

**§ 190-76 Applicability.**

- A. This article shall be applicable to all real property within the Town of Colonie.
- B. All land development activities subject to subdivision and/or site plan review and approval under the Colonie Land Use Law regulations shall be reviewed subject to the standards contained in this article. In this instance, the SWPPP shall be submitted along with subdivision and site plan applications.
- C. All land development activities not subject to subdivision and/or site plan review that are over an acre of disturbance shall be required to submit a SWPPP to the Stormwater Management Office, who shall review the SWPPP for compliance with the requirements of this article.
- D. All land development activities in which there is an increase in impermeable ground cover shall be required to submit plans to the Stormwater Management Office for review.

**§ 190-77 Exemptions.**

The following activities are exempt from the permit requirements under this article. However, even those projects which are exempt from the permit requirements must meet the standards set forth in this article.

- A. "Agricultural activity" as defined in this article.
- B. Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a stormwater management facility.
- C. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.
- D. Cemetery graves.
- E. Installation of fence, sign, telephone and electric poles and other kinds of posts or poles.
- F. Emergency activities immediately necessary to protect life, property or natural resources.
- G. Activities of an individual engaging in home gardening by growing flowers, vegetables and other plants primarily for use by that person and his or her family.
- H. Landscaping and horticultural activities in connection with an existing structure that does not change the drainage patterns.
- I. Creation or restoration of wetlands pursuant to a State or Federal Wetlands Permit.
- J. Creation, restoration or preservation of pine bush habitat by the Albany Pine Bush Preserve Commission.

**§ 190-78 Stormwater pollution prevention plans.**

- A. Stormwater pollution prevention plan requirement. No approval of a land development activity shall be issued until a stormwater pollution prevention plan (SWPPP) has been accepted in accordance with the specifications in this Article. A grading permit shall not be issued until the SWPPP is approved in writing by the Town of Colonie.
- B. Erosion and Sediment Control Plan. All SWPPPs shall, at a minimum, have an erosion and sediment control plan that provides control measures to minimize the discharge of pollutants and prevent a violation of water quality standards. Erosion and Sediment Control plans shall meet the

requirements of the New York State Standards and Specifications for Erosion and Sediment Control and the Town of Colonie Highway and Drainage Standards.

- (1) Development within impaired watersheds or where a five-acre-variance request is submitted to DEC may require additional data.

C. Post-construction stormwater runoff control. In addition to the Erosion and Sediment Control Plan, land development activities meeting any of the three conditions below shall also be required to provide a report as to water quantity and water quality controls (post-construction stormwater runoff controls):

- (1) Stormwater runoff from project activity disturbing between one and five acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties;
- (2) Stormwater runoff from land development activities disturbing five or more acres; or
- (3) Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the New York State Department of Environmental Conservation's 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
- (4) The additional report to be provided for post-construction stormwater controls shall be provided with the SWPPP application and shall include:
  - (a) Description of each post-construction stormwater management practice;
  - (b) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
  - (c) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
  - (d) Comparison of post-development stormwater runoff conditions with predevelopment conditions;
  - (e) Dimensions, material specifications and installation details for each post-construction stormwater management practice;
  - (f) Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice;
  - (g) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property;
  - (h) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with § 190-80 of this article.
  - (i) If the land development activity meets either of the conditions described in § 190-78C(1)(b) or (c) above (activity disturbs five acres or more, or runoff discharges a pollutant of concern to either an impaired water or a TMDL-designated watershed) then the SWPPP shall be prepared by a landscape architect, certified professional in erosion and sediment control (CPESC), soil scientist or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this article.

### SECTION 3. SEVERABILITY

If any clause, sentence or provision of this local law or the application thereof to any person or circumstance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity thereof shall not affect, impair or invalidate the remainder of the provisions of this local law or the application thereof to other persons and circumstances.

### SECTION 4. SEQR DETERMINATION.

The Town Board hereby determines that this amendment is an Unlisted action that will not have a significant effect on the environment and, therefore, no other determination or procedure under the State Environmental Quality Review Act ("SEQRA") is required.

SECTION 5. EFFECTIVE DATE

This local law shall take effect upon its proper filing in the Office of the Secretary of State.

**(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)**

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 2023 of the **Town of Colonie** was duly passed by the Town Board on April 20, 2023 in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer'.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (Town) \_\_\_\_\_ of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not disapproved)(repassed (Name of Legislative Body) after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_ in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (\_\_\_\_\_) (Town) (\_\_\_\_\_) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not disapproved)(repassed after (Name of Legislative Body) disapproval) by \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on I 9 in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the \_\_\_\_\_ (Town) (\_\_\_\_\_) of \_\_\_\_\_ was duly passed by the (Name of Legislative Body) on \_\_\_\_\_ 20\_\_\_\_ and was (approved)(not disapproved)(repassed after (disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of 20\_\_\_\_ in accordance with the applicable provisions of law.

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**\*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.**

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_, 20\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

\_\_\_\_\_  
Clerk of the Town or officer designated by local legislative body  
Date:

*(Seal)*

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF ALBANY

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

\_\_\_\_\_  
Signature Town of Colonie Town Attorney  
Date: